IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRL.R.No.252 of 2006

DATE OF ORDER: 21.12.2006

Naveen

...Petitioner(s)

Versus

State of Haryana

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. Rajat Rathee, Advocate.

Mr. S.K. Hooda, Sr.DAG, Haryana.

M.M. AGGARWAL,J

Affidavit of Hargain Singh, father of the petitioner has been filed showing that the date of birth of the petitioner is 2.2.1989 and that he had two other children, who are younger to the present petitioner.

On behalf of the State, a certificate issued by Registrar, Birth and Deaths has been produced showing that one Vicky son of Hargian son of Tuli Ram was born on 8.7.1987. On behalf of the State, it is stated that this certificate belongs to the present petitioner.

Counsel for the petitioner argues that Hargian in the certificate produced by the State is shown to be son of Tuli Ram and mother's name of

the son is stated to be Shakuntala whereas name of father of Hargian Singh is actualy Rati Ram and name of the mother of the son is Sant Kala. It is argued that the certificate being produced does not belong to the present petitioner. Counsel for the petitioner has relied on judgments reported in Bhoop Ram v. State of U.P, 1989(1) RCR (Criminal) 573 and Rajinder Chandra v. State of Chhattisgarh.

Name of the village in this case is Dhandhlan. Present petitioner is admittedly resident of village Dhandhlan and the village mentioned in the certificate as shown by the respondent-State is also Dhandhlan.

During the inquiry made by Juvenile Justice Board, Hargian had appeared and he had stated that Naveen was his eldest son. Marriage had taken place in 1986. However, Naveen was born on 2.2.1989. He had tendered 8th Class Certificate in this connection.

Case is for the offence under Sections 302/201/216/34 IPC and Sections 25/54/59 of the Arms Act.

Juvenile Justice Board had declared the present petitioner to be juvenile vide order dated 18.11.2005. State filed revision and Additional Sessions Judge, Sonepat had accepted the revision and held that the date of birth of the present petitioner was 8.7.1987 and therefore he was not juvenile. Against that order, present petition has been filed.

Occurrence in this case had taken place on 17.7.2005.

Counsel for the petitioner was asked to show as to whether there was any other person of the name of Hargian Son of Tuli Ram in the village and whether that person could be produced to which counsel for the petitioner has not given any specific reply.

The only conclusion, which can be arrived at is that the certificate being produced on behalf of the State issued by Registrar of Birth and Deaths pertains to the present petitioner since his father had married in 1986 and a child could have born in normal course in 8.7.1987 as well. There could be some mistake in the parentage recorded of Hargian son of Tuli Ram. The only conclusion will be that the present petitioner was born on 8.7.1987. He was more than 18 years of age on the date of commission of offence.

There is no infirmity in the judgment of Additional Sessions Judge. As such, there is no merit in the petition and the same is dismissed.

December 21, 2006 (M.M. AGGARWAL)
manoj JUDGE